

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FOUNTAIN VALLEY SCHOOL
DISTRICT.

OAH CASE NO. 2014010608

ORDER DENYING DISTRICT'S
MOTION TO CLARIFY STUDENT'S
STAY PUT PLACEMENT

On January 16, 2014, Student filed a Due Process Hearing Request¹ (complaint) naming Fountain Valley Unified School District (District) as the respondent. The complaint stated, as Issue One, that District had failed to implement Student's last agreed-upon individualized educational program (IEP) dated September 4, 2007. On January 30, 2014, District filed a Motion for Clarification of Student's Stay Put Placement (Motion), acknowledging that Student's September 4, 2007, IEP was the last agreed-upon IEP, and offering to implement it as Student's stay-put placement during the pendency of this matter.² On February 4, 2014, Student filed a Non-opposition to District's Motion, agreeing that the September 4, 2007, IEP was Student's stay-put placement. As discussed below, the Motion is denied as moot; there is no existing dispute, because the parties agree that the September 4, 2007, IEP is Student's stay-put placement.

Until due process hearing procedures are complete, a special education student is entitled to remain in his or her current educational placement, unless the parties agree otherwise. (20 U.S.C. § 1415(j); 34 C.F.R. § 300.518(a) (2006); Ed. Code, § 56505 subd. (d).) This is referred to as "stay put." For purposes of stay put, the current educational placement is typically the placement called for in the student's individualized education program (IEP), which has been implemented prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.)

Student is entitled to remain in his last agreed upon and implemented placement while a dispute is pending. An order for stay put is generally not required unless a dispute over placement exists. Here, no dispute exists as to Student's placement and services while the

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

² District's Motion stated it had always been amenable to implementing this IEP, and raised factual issues concerning parental consent which are not relevant to the disposition of the Motion.

dispute is pending. Student has not moved for stay put, and District's Motion clarifying its understanding of Student's stay-put placement is unopposed. The Motion is therefore denied as unnecessary.

DATE: February 07, 2014

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings